

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

DAVID WAYNE THOMAS, II,

Plaintiff,

v.

C R BARD INCORPORATED, BARD
PERIPHERAL VASCULAR
INCORPORATED,

Defendants.

Case No. C19-1464RSM

NOTICE SETTING ASSESSMENT
CONFERENCE

Date: January 5, 2021

Time: 10:00 a.m. PST

Dial-in Conference

This case has been referred to the Mediation Program of the Ninth Circuit Court of Appeals. The court has scheduled a dial-in telephone mediation assessment conference, with counsel only, on January 5, 2021, at 10:00 a.m. Pacific Time to discuss whether this case is appropriate for participation in the Mediation Program. Each attorney of record on the docket will receive an email with dial-in information. *See* Attachment A. If there are any changes or additions to the list, please notify the Mediation Office at mediation@ca9.uscourts.gov.

Please notify Circuit Mediator Roxane Ashe immediately by email (Roxane_Ashe@ca9.uscourts.gov) if counsel has an unavoidable scheduling conflict. Please copy all counsel on any such communications.

All discussions that take place in the context of the assessment conference are strictly confidential. For more detailed information about the Assessment Conference, see Attachment

B. For more information about The Ninth Circuit Mediation Program generally, see www.ca9.uscourts.gov/mediation.

DATED this 8th day of December, 2020.

A handwritten signature in black ink, appearing to read 'R. Martinez', with a stylized flourish at the end.

RICARDO S. MARTINEZ
CHIEF UNITED STATES DISTRICT JUDGE

LIST OF CONFERENCE PARTICIPANTS

(Attachment A)

Ben C. Martin
MARTIN BAUGHMAN PLLC
3141 HOOD ST STE 600
DALLAS, TX 75219
214-761-6614
Fax: 214-744-7590
Email: eservice@martinbaughman.com

Christopher W Tompkins
BETTS PATTERSON & MINES (SEA)
701 PIKE ST
STE 1400
SEATTLE, WA 98101-3927
206-292-9988
Fax: 206-343-7053
Email: ctompkins@bpmlaw.com

James F Rogers
NELSON MULLINS RILEY & SCARBOROUGH (COLUMBIA)
1320 MAIN STREET
17TH FLOOR
COLUMBIA, SC 29201
803-255-9489
Email: Jim.Rogers@Nelsonmullins.com

Joseph E Fornadel , III
NELSON MULLINS RILEY & SCARBOROUGH (COLUMBIA)
1320 MAIN STREET
17TH FLOOR
COLUMBIA, SC 29201
803-255-9227
Fax: 803-255-5178
Email: joe.fornadel@nelsonmullins.com

Natasha A Khachatourians
BETTS PATTERSON & MINES (SEA)
701 PIKE ST
STE 1400
SEATTLE, WA 98101-3927
206-292-9988
Email: nkhachatourians@bpmlaw.com

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT
CIRCUIT MEDIATION OFFICE

Email: ca09_mediation@ca9.uscourts.gov
Phone: 415-355-7900 Fax: 415-355-8566

(Attachment B)

**CASES REFERRED BY THE U.S. DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
FOR SETTLEMENT ASSESSMENT**

Overview

- The Ninth Circuit Mediation Office is staffed by eight Circuit Mediators, all of whom are Ninth Circuit employees with extensive mediation and litigation experience. The settlement assessment call and subsequent mediation, if any, will be held by one of the Circuit Mediators. The cases are randomly assigned to the Circuit Mediators irrespective of subject matter or issues.

The Settlement Assessment Conference

- The purpose of the assessment conference is to provide an opportunity for counsel and the Circuit Mediator to have a frank discussion about settlement. The mediator will explore the parties' interests in settlement and, if all counsel are in agreement, schedule a video mediation. If there is no agreement to proceed with mediation, the court will be so informed and the referral to the Ninth Circuit Mediation Office will end.
- Counsel for all parties in the case should participate in the assessment conference. The lawyer with the closest relationship to the client should be on the call. Clients are discouraged from participation in the assessment conference.
- In advance of the conference, counsel should have a discussion with their clients about their goals in the litigation, its possible costs and outcomes (good and bad), the potential for further legal proceedings, and what issues beyond the litigation might be explored in mediation. (See the court's website for a list of questions for exploring the suitability of the dispute for settlement.)

- During the conference, counsel and the Circuit Mediator will discuss the factual and legal background of the dispute, the legal issues involved in the litigation, the real-world problems that gave rise to the litigation, any related legal proceedings, and any other considerations that may affect the parties' willingness to engage in settlement discussions. The scope of discussions is not limited to the issues in the case and can include related legal proceedings or any other issues between the parties.

Confidentiality

- Settlement-related information disclosed to a Circuit Mediator will be kept confidential and will not be disclosed to the referring judge or to any other person outside the mediation participants.
- For all mediations conducted by a Circuit Mediator - including the settlement assessment conference - the U.S. District Court for the Western District of Washington will employ the confidentiality Rules and procedures of the Ninth Circuit Mediation Office. See Ninth Circuit Rule 33-1, and the Confidentiality Section of the Ninth Circuit Mediation Office website: www.ca9.uscourts.gov/mediation/confidentiality.php
- Additionally Rule 408, Federal Rules of Evidence, applies to all aspects of the mediation process, including the telephone assessment conference. All communications and information exchanged in and during the settlement process, not otherwise discoverable, will not be admissible in evidence for any purpose and shall not be used for any purpose outside the mediation itself.

More information is available at: www.ca9.uscourts.gov/mediation.